रजिस्ट्री सं॰डी॰एल॰-33004 / 97 REGISTERED No. DL-33004/97

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग II—खण्ड 2
PART II—Section 2
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं॰ 20] नई दिल्ली, शुक्रवार, मई 2, 1997/वैशाख 12, 1919
No. 20] NEW DELHI, FRIDAY, MAY 2, 1997/VAISAKHA 12, 1919

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bills were introduced in Lok Sabha on 2.5.1997:—

BILL NO. 27 OF 1997

A Bill further to amend the constitution of India.

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

1. This Act, may be called the Constitution (Amendment) Act, 1997. Short title.

2. In article 171 of the Constitution, in clause *(3)*, for sub-clause (*c*), the following sub-clause and Explanation thereto shall be substituted, namely:— Amendment of article 171.

"*(c)* as nearly as may be, one-twelfth shall be elected by electorates consisting of persons who have been for at least three years engaged in teaching in any recognised educational institution within the State.

Explanation.—In this sub-clause, the expression "recognised educational institution" means educational institution which is recognised by the Union Government or the Government of a State;".

STATEMENT OF OBJECTS AND REASONS

At present only those teachers who have been teaching in secondary schools and above are eligible to vote in the elections to the Legislative Council from the teacher's constituency. The main object of making representation of teachers in the Legislative Council is to ensure that the problems of all categories of teachers could be effectively redressed in the legislative forum. However, the purpose is completely defeated as large number of teachers teaching in recognised primary and middle level schools have been denied the opportunity of casting their vote in these elections. It is, therefore, necessary to amend the Constitution in order to give wider representation to the teaching community in the Legislative Council so that there should not be any discrimination among the teachers teaching in primary or middle or other levels.

Hence this Bill.

NEW DELHI;
February 6, 1997

K. C. KONDAIAH

BILL NO. 44 OF 1997

A Bill further to amend Land Acquisition Act, 1894.

WHEREAS it is expedient to amend the Land Acquisition Act, 1894, in its application, to the State of Uttar Pradesh for removal of inequalities, anomalies and discrimination, in the manner hereinafter appearing:

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

Short title, extend and commencement.

1. (*1*) This Act may be called the Land Acquisition (Amendment) Act, 1997.

(*2*) It extends to the whole of the State of Uttar Pradesh.

(*3*) It shall be deemed to have come into force on the 24th day of September, 1984.

Insertion of new section 54-A.

2. After section 54 of the Land Acquisition Act, 1894, the following section shall be added, namely:—

Extention of the provisions of Act No. 68 of 1984 to certain acquisitions in the State of Uttar Pradesh.

"54A. (*1*) The provisions of the Land Acquisition (Amendment) Act, 1984 (Act No. 68 of 1984) shall apply, and shall be deemed to have applied, also to, and in relation to the acquisitions of land by the State of Uttar Pradesh for the Uttar Pradesh Avas Evam Vikas Parishad constituted under section 3 of the Uttar Pradesh Avas Evam Vikas Parishad Adhiniyam, 1965.

(2) The provisions of the Uttar Pradesh Avas Evam Vikas Parishad Adhiniyam, 1965 and the Schedule thereto, to the extent of their repugnancy to the provisions of the Land Acquisition (Amendment) Act, 1984, shall stand amended, and shall be deemed to have been amended; and

(3) The provisions of this section shall always be deemed to have been in force from the 24th day of September 1984, notwithstanding any judgement, decree or order of any Court or the Tribunal to the contrary.

STATEMENT OF OBJECTS AND REASONS

At present the farmers in Uttar Pradesh whose lands are acquired for the purpose of housing are paid less compensation as compared to the compensation paid to the land acquired for other purposes by the Government. This has caused great unrest, agony and distress among thousands of poor farmers of Uttar Pradesh. Already for more than 100 housing schemes, lands have been compulsorily acquired from poor farmers taking recourse to the provisions of Uttar Pradesh Act which was enacted in 1966.

The State is discriminating against poor and ignorant farmers in the matter of payment of adequate compensation for compulsory acquisition of land considering that more compensation is paid for compulsory acquisition of land for other public purposes according to the provisions of Land Acquisition Act, 1894.

The Land Acquisition Act, 1894 was enacted by the Parliament with a laudable purpose to balance the promotion of public purpose on the one hand and the rights of individuals on the other, whose lands are acquired and which often deprive them of their means of livelihood. In fact, the Land Acquisition Act, 1894 was amended many times in order to remove anomalies/deficiencies that were experienced during the passage of time and in order to give a fair deal to the persons whose lands are acquired so as to enable them to rehabilitate and restitute to them the amount of compensation in lieu of acquisition of land. In this connection, it may be mentioned that the provisions of the Land Acquisition Act, 1894 apply to all cases of acquisition of land that are made by the State of Uttar Pradesh but the benefits are not extended in case of acquisition of land for housing purposes.

The Bill seeks to amend the Land Acquisition Act suitably in order to remove discrimination and anomalies in case of acquisition of land for housing purposes in the State of Uttar Pradesh.

Hence this Bill.

NEW DELHI;
February 17, 1997.

BHAGWAN SHANKAR RAWAT

BILL NO. 62 OF 1997

A Bill further to amend the Land Acquisition Act, 1894.

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Land Acquisition (Amendment) Act, 1997.

(*2*) Sections 2 to 4 and 6 shall be deemed to have always been in force and section 5 shall be deemed to have been in force with effect from 24th day of September, 1984.

Substitution of new section for section 16.

2. In the Land Acquisition Act, 1894 (hereinafter referred to as the Principal Act), for section 16, the following section shall be substituted, namely:—

Power to take possession.

"**16.** (*1*) When the Collector has made an award under section 11, he may take possession of the land, which shall thereupon vest absolutely in the Government, free from all encumbrances:

Provided that any person, from whom any land is so acquired, may, after the expiration of a period of ten years from the date of such acquisition, apply to the State Government for restoration of that land to him on the ground that the land has not been utilised for the public purpose for which it was acquired within the said period, and, if the State Government is satisfied to that effect, it shall order restoration of the land to him on payment of charges which were incurred in connection with acquisition together with interest at the rate of fifteen per centum per annum and such developmental charges, if any, as may have been incurred after acquisition.

Explanation.—In computing the period of ten years, the period during which the acquired land could not be utilised on account of injunction or stay order of the Court shall be excluded.

16 of 1908. (*2*) Notwithstanding anything contained in the Registration Act, 1908, the order of restoration of land passed by State Government under sub-section (*1*) shall not be liable to registration under that Act, and shall also be not liable to be charged with any stamp 2 of 1899. duty under the Indian Stamp Act, 1899.".

Amendment of section 17.

3. In section 17 of the principal Act, after sub-section (*4*), the following sub-section shall be added, namely:—

"(*5*) The provision relating to restoration of land referred to in sub-section (*1*) of section 16 shall apply in relation to acquisition of land made under sub-sections (*1*) and (*2*).".

Amendment of section 18.

4. In section 18 of the principal Act,

(*i*) in sub-section (*2*), after the existing proviso, the following provisos shall be added, namely:—

"Provided also that the Collector may entertain the application after the expiry of any period referred to in clauses (*a*) and (*b*) of the first proviso if he is satisfied that the applicant was prevented by sufficient cause from making the application in time:

Provided also that if a reference has been made to the Court which thereupon finds that the application was not made in time, the Court may, if satisfied that the applicant was prevented by sufficient cause from making application in time, condone the delay.".

(*ii*) After sub-section (*2*), the following sub-sections shall be added, namely:—

"(*3*) The Collector shall, within ninety days from the date of receipt of an application under sub-section (*1*), make a reference to the Court:

Provided that if the Collector does not make a reference to the Court within a period of ninety days from the date of receipt of the application, the applicant may apply to the Court to direct the Collector to make the reference, and the Court may direct the Collector to make a reference within such time as the court may fix.

(*4*) Any order made by the Collector on an application under this section shall be subject to revision by the High Court, as if the Collector were a Court subordinate to the 5 of 1908. High Court within the meaning of section 115 of the Code of Civil Procedure, 1908."

Amendment of section 28.

5. In section 28 of the Principal Act, the following explanation shall be added at the end, namely:—

"Explanation.—The expression 'compensation' as appearing in this section and also in section 34 shall include all the amounts payable under sub-sections (*1A*) and (*2*) of section 23.".

Amendment of section 28A.

6. In section 28A of the principal Act,—

(*i*) In sub-section (*1*), after the existing proviso, the following proviso shall be inserted, namely:—

"Provided also that the Collector may entertain the application after the expiration of the said period, if he is satisfied that the applicant was prevented by sufficient cause, from making an application in time."; and

(*ii*) after sub-section (*3*), the following explanation shall be added, namely:—

"*Explanation.*— For the purposes of this section, an award of the Court under this part means and includes the judgement of the High Court and of the Supreme Court and if the award of the reference Court, made under section 26, is disputed by an aggrieved person, and the limitation as prescribed in sub-section (*1*) shall be computed, accordingly, from the date of the judgement of the High Court or the Supreme Court, as the case may be.".

Amendment of section 50.

7. In section 50 of the principal Act,—

(*i*) in sub-section (*2*) , after the existing proviso, the following proviso shall be added, namely—

"Provided also that the knowledge of the local authority or company regarding the pendency of reference proceedings would be sufficient notice to such local authority or company.".

(*ii*) After sub-section (*2*), the following sub-section shall be added, namely:—

"(*3*) Where the amount is payable by the Collector consequent to, the making of the award by the Court under part III or, the decree of the High Court or the Supreme Court on an appeal therefrom under section 54, the person interested may, at his option, recover the same from the local authority or the Company as if it were liable to pay such an amount.".

STATEMENT OF OBJECTS AND REASONS

The power of Sovereign to take private properties for public use is based upon the doctrine of eminent domain. Consequently, the right of the owner to compensation for the deprivation of such a property is also well recognised. A justification of this exercise of the power is based on two Latin maxims: (i) alus populo suprema est *i.e.* regard for the public welfare is the highest law and (ii) necessity publica major est quam private *i.e.* public necessity is greater than private necessity.

One of the most important enactment for exercise of the right of eminent domain is the Land Acquisition Act, 1894, which was enacted more than a centuary back. However, with the passage of time and evolution of law, scores of deficiencies in the Act have surfaced. The Parliament and also the State Legislatures tried to remove them from time to time. The most appreciable endeavour in that regard is the Land Acquisition (Amendment) Act, 1984 (Act No. 68 of 1984), whereby several new provisions were inserted and certain existing provisions were modified.

The judicial pronouncements that have been recently given, while construing the provisions of the said Act and also the provisions enacted by the Act No. 68 of 1984, have highlighted several facets, which ordain amendments of the Act.

It has been, often, experienced that large scale acquisitions are being resorted to without there being immediate need of such lands and, therefore, the provision relating to the restoration of the acquired land to its ex-land owner would provide an effective check on such unhealthy tendency.

Further, there can be hardly any rationale for not restoring it back to its ex-owner on payment of acquisition cost alongwith interest and development charges if the State fails to utilize the acquired land even after the expiry of ten years from the date of acquisition of such land.

Also, lack of an in-built provision in section 18 of the Act for condonation of delay is apparently harsh. *Bona fide* and inadvertent delays merit to be excused. Since there are inordinate delays on the part of the Collector in making references to the Court, the Bill proposes to lay down time limit of 90 days for the Collector to make reference on receipt of an application from the interested person and, if the time period of 90 days elapses, an applicant may apply to the Court for seeking directions against the Collector, commanding him to make a reference.

Till recently, there has been consistent judicial opinion that the amount of solatium, payable under section 23 of the Act, in consideration of compulsory acquisition is an integral part of compensation and is to fetch statutory interest under sections 28 and 34 of the Act. However, of late, the Court has taken a contrary view, according to which the amount of compensation means only the market value of the land. The proposed amendment to section 28 seeks to define the expression 'compensation' to include the amounts payable under various sub-sections of section 23 of the Act.

The proposed amendment to section 28A of the Act is to achieve the laudable purpose of empowering the Collector to entertain such applications which are not filed in time on account of *bona fide* reasons constituting sufficient cause. The proposed explanation to section 28A is intended to enlarge the connotation of the expression 'award of the Court' under Part III.

The Apex Court in its recent judgement has, *inter-alia,* opined, that the right of a local authority or a company for whom land is being acquired has a right to be given adequate notice under section 50(2) of the Act. Since the Act does not postulate any particular

form of notice and, most often, if has been experienced that the local authority/company possesses complete knowledge and information about reference proceedings, it has been proposed that the knowledge of pendency of the reference proceedings would be sufficient notice to such local authority/company. Further, under the law, as it stands now, an ex-land owner cannot recover the amount awarded by the reference Court/High Court directly from the local authority/company in the execution proceedings. At the same time, the Collector also does not satisfy the decree of the Court for want of funds from the concerned local authority/company. It has also been experienced that the amounts are recovered by attachment of the properties belonging to the Collector. The, Bill, therefore, seeks to empower the decree-holder to realise the awarded sum directly from the concerned local authority/company.

It cannot be gainsaid that review of any law in the light of judicial scrutiny is crucial to ensure de facto achievement of the legislative intent and purport. The various amendments proposed in the Bill are, therefore, urgently required and intended to give a fair deal to the farmers and others by removal of several anomalies and deficiencies of the Act.

Hence this Bill.

NEW DELHI ;
February 27, 1997.

BHAGWAN SHANKAR RAWAT

FINANCIAL MEMORANDUM

Clause 5 of the Bill seeks to define the expression 'compensation' in order to include the amounts payable under sub-section (1A) and (2) of section 23 of the land Acquisitio· Act, 1894.

As regards the payment of compensation in connection with the lands acquired by State Governments, the expenditure will be met out of the Consolidated Funds of respective State Governments. However, in case of payment of compensation for lands acquired by the Central Government, the expenditure will be met out of the Consolidated Fund of India. The Bill, therefore, if enacted, would involve expenditure out of Consolidated Fund of India. At present, it is not possible to give the exact amount which will be incurred out of the Consolidated Fund of India to carry out the provisions of the Bill. However, a recurring expenditure of the amount of rupees one hundred crore per annum is likely to be involved out of the Consolidated Fund of India.

A non-recurring expenditure of about rupees one hundred crore is also likely to be involved.

BILL NO. 63 OF 1997

A Bill further to amend the States Reorganisation Act, 1956.

BE it enacted by Parliament in the Forty-eighth year of the Republic of India as follows:—

Short title.

1. This Act may be called the States Reorganisation (Amendment) Act, 1997.

Amendment of section 51.

2. In section 51 of the States Reorganisation Act, 1956,—

(i) after sub-section *(2)*, the following sub-section shall be inserted, namely:—

"*(2A)* The President may, after the expiry of every four years, review the matter of establishment of a permanent bench or benches of the High Court of a new State with reference to demand made in regard thereto:

Provided that where the Chief Justice of that High Court, after being formally requested to, does not express his opinion in writing within six months from the date of such request, it shall be deemed that the Chief Justice has no opinion to give on the subject:

Provided also that the President shall not be bound by the opinion given under sub-section (2) by the Governor of a new State or the Chief Justice of the High Court of that State:

Provided also that the President, if deems fit, may appoint a three-member Commission, chaired by a sitting or retired Judge of the Supreme Court of India, to examine the matter of desirability and feasibility of and situs for the establishment of a new permanent bench or benches of the High Court for the new State and to give its opinion in regard thereto after ascertaining the views of the Governor and the Chief Justice of the High Court of that State, and if the President does so, there shall be no further requirement for the President to consult the Governor or the Chief Justice of the High Court of that State:"; and

(ii) after sub-section (3), the following provisos shall be added, namely:—

"Provided that the desirability of sitting of the judges and division courts of the High Court for a new State at such other new place or places in that State shall be reviewed periodically after every four years by the Chief Justice of that High Court:

Provided further that the Chief Justice may order that any case or class of cases arising before the judges at such place or places be heard and disposed of at the principal seat of that High Court:

Provided also that the cases, involving interpretation of the provisions of the Constitution or the vires of statute or a part thereof or a rule or regulation made under the statute, which have not already been settled by the Supreme Court or the High Court, shall not be heard in such sittings and shall be heard at the principal seat of that High Court.".

STATEMENT OF OBJECTS AND REASONS

In a democratic set-up, it is the basic duty of the State to bring justice to the door-steps of the people.

It cannot be gainsaid that distance of the principal seat of a High Court from the place of residence of the litigants makes it extremely difficult, nay impossible, to avail the remedies provided by the Constitution for enforcement of fundamental and other rights. It has always been the declared policy of the Government of India to provide justice at the door-steps of litigants.

To establish a permanent Bench or Benches of the High Court is the Constitutional prerogative of the Union Parliament *vide* entry 78 of the Union List of the Seventh Schedule to the Constitution.

The statute law enacted by the Parliament in that regard is the States Reorganisation Act, 1956 (Act No. 37 of 1956).

Section 51(2) of the said Act provides for consultation by the President with two other constitutional functionaries, namely, the Governor of the State and the Chief Justice of the High Court of that State, depicting involvement of three functionaries.

It has been experienced that there often results an impasse due to absence of unanimity of opinion of the three Constitutional functionaries, which culminates into denial of the Constitutional obligation to bring justice to the door-steps of the people, as enshrined in article 39A of the Constitution. The report of the Jaswant Singh Commission, prepared at the heavy expense of time and money, is burning illustration thereof.

The reasons for absence of unanimity by the three aforesaid functionaries are more than apparant. The Chief Justice of the High Court also does not easily agree for establishment of the Benches despite popular demand of the public at large and of elected representatives. It, hence, necessitates that some one should have the final say in the matter and that can alone be of the President under the Constitutional framework.

Hence this Bill.

NEW DELHI;
March 10, 1997.

BHAGWAN SHANKAR RAWAT

BILL NO. 52 OF 1997

A Bill to to provide for withdrawal and prevention of all legal proceedings under the Terrorist and Disruptive Activities (Prevention) Act, 1987 which expird on 23 May, 1995 and for matters connected therwith or incidental thereto.

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

Short title and commencement.

1. *(1)* This Act may be called the Terrorist Disruptive activities (Prevention) (Withdrawal of Legal Proceedings) Act, 1997.

(2) It shall come into force at once.

Withdrawal and preventionof legal proceedings.

2. Notwithstanding anything contained in the Terrorist and Disruptive activities (Prevention) Act, 1987, (hereinafter referred to as the principal Act),-

(a) all investigations and legal proceedings pending or continuing and all order made under such pending or continuing proceedings in accordance with the provisions of the principla Act shall be deemed to have lapsed or abated or been withdrawn on the date of coming into force of this Act;

(b) no investigation, prosecution or legal proceeding, whether pertaining to the previous operation of the principal Act or otherwise shall be instituted on or after the date of commencement of this Act;

(c) all the accused facing prosecution and legal proceedings under the principal Act shall stand discharged on the date of commencement of this Act.

Abolitionof designated courts

3. All designated courts constituted under the principal Act shall be deemed to have been abolished and such courts shall cease to function on and from the date of commencement of this Act.

Act to have over-riding effect

4. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other enactment or in any instrument effect by virtue of any other enactment.

STATEMENT OF OBJECTS AND REASONS

The Terrorist and Disurptive Activities (Prevention) Act, 1987 lapsed on 23rd May, 1995. The Act had been widely criticised as violative of all democratic legal norms. There was gross misuse and abuse of the act leading to limitless sufferings of a large number of people.

Though the obnoxious Act has lapsed, still thousands of legal proceedings continue and a large number of persons, languish under detention. This situation, pursuant to sub-section (4) of section 1 of the undemocratic TADA Act, is a serious anachronism and a source of great suffering to the vixtims.

The Bill seeks to provide for the withdrawal of all legal proceedings under the draconian Act.

NEW DELHI; G.M. BANATWALLA

March 11, 1997.

BILL NO. 57 OF 1997

A Bill further to amend the Constitution (Scheduled Tribes) Order, 1950.

BE it enacted by Parliament in the Forty-eighth year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Scheduled Tribes) Order (Amendment) Act, 1997.

Amendment of the Schedule.

2. In the Schedule to the Constitution (Scheduled Tribes) Order, 1950,— C.O. 22.

(*i*) in Part I.—Andhra Pradesh, entries 10 to 33 shall be re-numbered as entries 11 to 34, respectively, and before entry 11 as so re-numbered, the entry "10. Kadu Gollas, Hatti Gollas" shall be inserted; and

(*ii*) in Part VI.—Karnataka, entries 16 to 49 shall be re-numbered as entries 17 to 50, respectively, and before entry 17 as so re-numbered, the entry "16. Kadu Gollas, Hatti Gollas" shall be inserted.

STATEMENT OF OBJECTS AND REASONS

The tribes, Kadu Gollas and Hatti Gollas who live in some parts of Andhra Pradesh and Karnataka, are nomads. The Government of Karnataka have declared them as backward tribes in 1974 and extended to them certain concessions and facilities. Since these tribes are educationally, socially and economically backward, it is necessary that they are included in the list of Scheduled Tribes to enable them to avail of the facilities as are provided to Scheduled Tribe communities. This measure will help to a great extent in ameliorating their miserable condition.

This Bill seeks to achieve the above objective.

NEW DELHI;
March 12, 1997.

P. KODANDARAMAIAH

BILL NO. 69 OF 1997

A Bill to amend the Punjab Municipal Corporation Law (Extension to Chandigarh) Act, 1994.

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

Short title.

1. This act may be called the Punjab Municipal Corporation Law (Extension to Chandigarh) Amendment Act, 1997.

Amendment of the Schedule.

2. In the Schedule to the Punjab Municipal Corporation Law (Extension to Chandigarh) Act, 1994, for the entry relating to section 5, the following entry shall be substituted, namely:— 45 of of 1994.

'Section 5,—

(*a*) in sub-section (*2*),—

(*i*) in the first proviso, for

"forty and more than fifty",

substitute "twenty";

(*ii*) omit second proviso;

(*b*) in sub-section (*5*) and the Explanations thereto, for "Punjab Legislative Assembly", substitute "the House of the People".'

STATEMENT OF OBJECTS AND REASONS

There is no legislative assembly in Chandigarh. Chandigarh is a Union territory and does not elect any representative for Punjab Legislative Assembly. The Constitution of India provides that the member of Lok Sabha representing the constituency which comprises a Municipal Corporation shall be nominated as an associate councillor of that Corporation. The Bill seeks to extend this provision to Municipal Corporation of Chandigarh.

Hence this Bill.

NEW DELHI;
March 20, 1997.

SATYA PAL JAIN

BILL NO. 61 OF 1997

A Bill to regulate the functioning of private schools and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Private Schools (Regulation) Act, 1997.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "appropriate Government" means in the case of a State, the Government of that State and in all other cases the Central Government;

(*b*) "Authority" means the Education Authority constituted by the appropriate Government under section 3;

(*c*) "prescribed" means prescribed by rules made under this Act; and

(*d*) "private school" means an unaided school whether recognised or not, which is not run by the appropriate Government, or its local authority or any other authority designated or sponsored by appropriate Government and includes a pre-primary, primary, middle, higher secondary and senior secondary school and also other institutions which impart education or training below the degree level but does not include an institution which imparts technical education.

Constitution of Education Authority.

3. (*1*) **With effect from the appointed day, the appropriate Government shall, by notification in the Official Gazette, constitute an Authority in its territorial jurisdiction to be known as the Education Authority to regulate the functioning of the private schools and conditions of service of teachers working in those schools.**

(*2*) The Authority shall consist of,

(*a*) a Chairman to be appointed by the appropriate Government;

(*b*) not less than five members and not more than ten members to be appointed by the appropriate Government;

(*c*) such other officers and staff to assist the Authority as may be prescribed.

(*3*) The Chairman and other members referred to in sub-section (1) shall be chosen from among the persons who have special knowledge and experience in the field of education.

(*4*) The term of office and conditions of service of the Chairman and the members shall be such as may be prescribed.

Functions of the Education Authority.

4. (*1*) Subject to the rules, if any, made by the Central Government in this behalf, it shall be the duty of the Authority to regulate the functioning of the private schools and conditions of service of teachers under its jurisdiction.

(*2*) Without prejudice to the generality of the provisions contained in sub-section (1), the Authority may,

(*a*) prescribe the student teacher ratio for each standard;

(*b*) put a ceiling on the tution fee that may be charged by a school for a particular class;

(*c*) limit the hours of duty for teachers;

(*d*) monitor the funds collected by the schools;

(e) perform such other function as may be prescribed.

Conditions of service of teachers.

5. (*1*) The Authority may make rules regulating the minimum qualifications for recruitment and the conditions of service of teachers of a private school.

(*2*) Subject to any rule that may be made in this behalf, no teacher of a private school shall be dismissed, removed or reduced in rank nor shall his service be otherwise terminated except with the prior approval of the Authority.

Salaries and other benefits of teachers.

6. The salary, allowances, medical facilities, pension, gratuity, provident fund and other benefits of the teachers of the private school shall not be less than those of the teachers of the corresponding status in schools run by the appropriate Government.

Fee and other charges.

7. (*1*) No private school shall levy any fee or collect any other charges or receive any other payment except those spcified by the Authority.

(*2*) Every school shall obtain prior approval of the Education Authority before levying such fees and collecting such charges.

(*3*) The Authority shall ensure that the amount collected by the private school shall be spent only on the development of the school and for no other purposes.

Closing of school.

8. If, the appropriate Government on receipt of a report from the Authority is satisfied that the managing committee of any private school, has neglected to perform any of the duties imposed on it by or under this Act or any rule made thereunder and that it is expedient in the interest of school education to close down such school, it may, after giving reasonable opportunity of showing cause against the proposed action, close down such school for such period as may be prescribed:

Provided that if the school is a recognised private school, the appropriate Government shall also withdraw the recognition.

Act not to apply to minority schools.

9. The provisions of this Act shall not apply to schools run by religious or linguistic minorities.

Act not in derogation of other laws.

10. The provisions of this Act shall be in addition to and not in derogation of any other law or rules made thereunder.

Power to remove difficulty.

11. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty.

Power to make rules.

12. The Central Government, may after consultation with the State Governments, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

Now a days running an unaided private school has become a business. There are a number of unaided private schools throughout the country being run by a handful of persons. The main aim of these persons is to earn money rather than imparting good education. These schools are charging hefty tuition fee besides other charges in the name of donations, building funds, computer fee, etc. Not only this, these schools after availing the necessary tax concession are not investing the fund for the development of the schools. The teachers in these schools are underpaid and have no service benefits like medical facilities, provident fund, etc. There are cases of retrenchment/suspension of teachers without any reason whatsoever. The management works in connivance with officials. The women teachers are subjected to various kinds of harassments.

Education is not safe in the hands of such unscrupulous persons. Overcharging of fee on one hand and under payment of teachers on the other hand is the *modus operandi* of these people. The tax laws are violated with impunity.

Therefore, it becomes necessary to set up adequate mechanism to monitor, regulate and control the thriving education business not only to ensure that children get good education but also to protect people from exploitation.

Hence this Bill.

NEW DELHI;
March 31, 1997.

G.A. CHARAN REDDY

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the appropriate Government shall, within its territorial jurisdiction, establish an Education Authority to regulate the functioning of the unaided private schools. The Bill, therefore, if enacted, is likely to involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees 80 lakh will be involved as recurring expenditure per annum from the Consolidated Fund of India.

Non-recurring expenditure to the tune of rupees ten lakh is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill empowers the Central Government to make rules in consultation with the State Governments for carrying out the provisions of the Bill. The matters for which the rules will be made are matters of detail. As such the delegation of legislative power is of a normal character.

S. GOPALAN
Secretary General.

PRINTED BY THE MANAGER GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI AND PUBLISHED BY THE CONTROLLER OF PUBLICATIONS, DELHI—1997.